

**IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL**

Writ Petition No. 138 (SS) of 2001
(Old No. 23354 of 1991)

Janak Prasad,
S/o Sri Jagat Prasad Bhagat,
R/o Mohalla, Gujratiyan,
Thakurdwara Bus Stand,
Jaspur, District – Nainital,
At present working as LT Grade
Teacher in BSV Inter College,
Jaspur,
District – Nainital.

.....Petitioner.

Versus

1. Deputy Director of Education, Kuamon Region, Nainital.
2. District Inspector of Schools, Nainital.
3. U.P. Secondary Education Services Commission, Allahabad, through its Chairman.
4. Committee of Management, BSV Inter College, Jaspur, District – Nainital, through its Manager.
5. Sarvesh Kumar Sharma, Ad hoc Lecturer, BSV Inter College, Jaspur, District – Nainital.

.....Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri P.S. Rawat, holding brief of Sri Jagdish Prasad, learned counsel for the petitioner and Sri H.M. Raturi, learned standing counsel for State of Uttarakhand on behalf of respondents no. 1 and 2. No one is present for respondents no. 3 to 5.

By means of this writ petition, the petitioner has prayed to issue a writ in the nature of Mandamus commanding the respondents to promote the petitioner as Lecturer (Economics) in BSV Inter College, Jaspur, District – Nainital.

The services of Sri Sarvesh Kumar Sharma, who was working as Lecturer (Economics) in the said Institution, were terminated by the Committee of Management vide order dated 30.04.1991. Aggrieved with the order Sri Sarvesh Kumar Sharma preferred writ petition no. 14711 of 1991 before Allahabad High Court and the Allahabad High court allowed the writ petition on 09.08.1991 and directed the respondents to treat the petitioner in continuous services and also to pay salary and other emoluments admissible to him so long as he sustains in the service and is not terminated in accordance with law or regularly selected candidates comes forward to join the post held by the petitioner.

Sri Jitendra Chaudhary, learned counsel for the petitioner i.e. Sri Piyush Kumar Agarwal, working as Lecturer (Chemistry) in the BSV Inter College, who has filed writ petition no. 3576 (SS) of 2001 disputing the seniority between himself and Sri Sarvesh Kumar Sharma, has informed the court that Sri Sarvesh Kumar Sharma is still working as Lecturer (Economics) in the Institution and in fact, he has already been regularized on the post of Lecturer (Economics).

Since the post of Lecturer (Economics) in the Institution is occupied by Sri Sarvesh Kumar Sharma no order can be passed for promotion of the petitioner to the post of Lecturer (Economics) as the same is not vacant.

Writ petition lacks, of merit, as such, is dismissed. No order as to costs.

(M.M. Ghildiyal, J)

April 11, 2007

